IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 302 OF 1997
IN
SUIT NO. 8320 OF 1991

Miss. Vasanti Pragji Thakkar ..Petitioner

versus

Mukesh Jamnadas Thakkar & Ors. ..Respondents

Mr. R. B. Parab for the Petitioner.

Mr. R. R. Sharma for the Respondent No.1.

CORAM : S. A. BOBDE, J.
DATE : 8TH OCTOBER, 2007.

P.C.

1. Heard.

2. Petitioner has made grievance about non-compliance of the interim order dated 24.4.1997 passed by the City Civil Court, Mumbai, in which the City Civil Court gave the following order:

> "The Defendant No.1 is in charge of business ownership properties alongwith other occupants, and therefore Defendant No. 1 is ordered to pay to the Plaintiff a sum of

Rs.2,000/- per month during her life time."

3. Learned counsel for the petitioner states that the respondent No.1 ought to continue to comply with the order even today. On the other hand, learned counsel for the respondent No.1 points out, and, in my view rightly, that the suit in which the interim order was passed itself has been disposed of by passing of preliminary decree by the trial court. There is no dispute that the trial court has allotted a certain share of the property to the petitioner. In these circumstances, I am of the view that though the interim order states that the respondent No.1 is liable to pay to the petitioner a sum of Rs.2,000/- during her life time, by the very nature of the order and having regard to the final disposal of the suit, I am of the view that the said order cannot form the basis of the allegation of contempt i.e. wilful disobedience of the order. The parties were entitled to think that the interim order has come to an end after the disposal of the suit, which is always the case with the orders of the subordinate courts.

4. Learned counsel for the petitioner submits

that certain payments have allegedly not been made during the year 1997 upto 1999, though there is no allegation in the petition. Learned counsel for the respondent submits that there may have been some defaults, however, a total sum of Rs.55,000/- has been paid during the period of 1997 to 1999 vide affidavit in reply, paragraph 7.

5. In the circumstances, this is not a case for wilful disobedience of the interim order of the trial order, Contempt Petition is hereby dismissed.

(S.A. BOBDE, J.)